

Carl L. Becker, The Declaration of Independence - A Study of Political Ideas, 1922.

CHAPTER I

THE DECLARATION OF INDEPENDENCE

It is often forgotten that the document which we know as the Declaration of Independence is not the official act by which the Continental Congress voted in favor of separation from Great Britain. June 7, 1776, Richard Henry Lee, on behalf of the Virginia delegation, submitted to the Continental Congress three resolutions, of which the first declared that "these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved."¹ This resolution, which may conveniently be called the Resolution of Independence, was finally voted by the Continental Congress on the 2 of July, 1776.² Strictly speaking, this was the official declaration of independence; and if we were a nation of antiquaries we should no doubt find an incongruity in celebrating the anniversary of our independence on the 4 of July.

¹ *Journals of Congress* (Ford ed.), V, 424.

² *Ibid.*, 507.

Meanwhile, on the 10 of June, three days after Richard Henry Lee introduced the Resolution of Independence, it was voted to appoint a committee to "prepare a declaration to the effect of the said first resolution." The committee, appointed on the following day, consisted of Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert R. Livingston.¹ On the 28 of June, the committee reported to Congress the draft of a declaration which, with modifications, was finally agreed to by Congress on the 4 of July.² This is the document which is popularly known as the Declaration of Independence.

This title is not, strictly speaking, the official title of the document in question. The document never knew itself, in any of its various forms, by that name. Jefferson, in making the first draft, gave it the following title: *A Declaration by the Representatives of the United States of America, in General Congress assembled*. This title was retained in all the copies of the Declaration, except the engrossed parchment copy. On the 19 of July, 1776, Congress voted that the Declaration be engrossed on parchment, "with the title and stile of *The unanimous Declaration of the thirteen united States of America*." It is true, the Declaration, in the form adopted by

¹ *Ibid.*, 428-429, 431.

² *Ibid.*, 491, 510.

Congress, incorporates in its final paragraph the resolution of July 2; and so the Declaration may be said to be a declaration of independence, inasmuch as in it Congress once more declared what it had already declared two days before. Nevertheless, the primary purpose of the Declaration was not to declare independence, but to proclaim to the world the reasons for declaring independence. It was intended as a formal justification of an act already accomplished.

The purpose of the Declaration is set forth in the first paragraph — a striking sentence, in which simplicity of statement is somehow combined with an urbane solemnity of manner in such a way as to give that felicitous, haunting cadence which is the peculiar quality of Jefferson's best writing.

When in the course of human events, it becomes necessary for one people to dissolve the political bands, which have connected them with another, and to assume, among the powers of the earth, the separate and equal station, to which the laws of nature and of nature's God entitle them a decent respect to the Opinions of mankind requires that they should declare the causes which impel them to the separation.¹

¹ There are three texts of the Declaration which may be called official. One is the text in what is called the 'rough' Journal; a second

The ostensible purpose of the Declaration was, therefore, to lay before the world the causes which impelled the colonies to separate from Great Britain. We do in fact find, in the Declaration, a list or catalogue of acts, attributed to the king of Great Britain, and alleged to have been done by him with the deliberate purpose of establishing over the colonies "an absolute tyranny." These "causes" which the Declaration sets forth are not quite the same as those which a careful student of history, seeking the antecedents of the Revolution, would set forth. The reason is that the framers of the Declaration were not writing history, but making it. They were seeking to convince the world that they were justified in doing what they had done; and so their statement of "causes" is not the bare record of what the king had done, but rather a presentation of his acts in general terms, and in the form of an indictment intended

is the text in the 'corrected' Journal; a third is the text on parchment, the one which was signed by the members of Congress. The most authoritative text, one would suppose, should be that in the corrected Journal. Apart from spelling, punctuation, and capitalization, this text is the same as that in the rough Journal except in two instances in each of which a single word is omitted from the text in the corrected Journal which appears in the rough Journal. That these omissions were not intentional seems clear from the fact that they were not made in the final parchment copy. Cf. Hazelton, *The Declaration of Independence*, 170, 306, 321, 325. The texts in the rough Journal and on parchment are given below, pp. 174, 185. The text given in this chapter is that of the corrected Journal.

to clear the colonists of all responsibility and to throw all the blame on the king. From whatever causes, the colonists were in rebellion against established and long recognized political authority. The Declaration was not primarily concerned with the causes of this rebellion; its primary purpose was to present those causes in such a way as to furnish a moral and legal justification for that rebellion. The Declaration was essentially an attempt to prove that rebellion was not the proper word for what they were doing.

Rebellion against established authority is always a serious matter. In that day kings were commonly claiming to rule by divine right, and according to this notion there could be no 'right' of rebellion. The framers of the Declaration knew very well that however long their list of grievances against the king of Great Britain might be, and however oppressive they might make out his acts to have been, something more would be required to prove to the world that in separating from Great Britain they were not really engaged in rebellion against a rightful authority. What they needed, in addition to many specific grievances against their particular king, was a fundamental presupposition against kings in general. What they needed was a theory of government that provided a

place for rebellion, that made it respectable, and even meritorious under certain circumstances.

Before enumerating the specific grievances against the king of Great Britain, Jefferson therefore proceeded to formulate a general political philosophy — a philosophy upon which the case of the colonies could solidly rest. This philosophy, which affirms the right of a people to establish and to overturn its own government, is formulated in the first part of the second paragraph of the Declaration.

We hold these truths to be self-evident, That all men are created equal, that they are endowed by their creator with certain unalienable rights; that among these are life, liberty & the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

This is a frank assertion of the right of revolution, whenever "the people" are con-

vinced that the existing government has become destructive of the ends for which all government is instituted among men. Many difficulties lie concealed in the words "the people"; but it is sufficient to note in passing that a large part of the people in the colonies, not being convinced that the British government had as yet become destructive of their liberties, or for some other reason, were either indifferently or strongly opposed to separation. Yet the leaders of the Revolution, being now committed to independence, found it politically expedient to act on the assumption that the opposition was negligible. Very naturally, therefore, Jefferson endeavored to make it appear that the people of the colonies were thoroughly united in wishing to 'institute new government' in place of the government of the king.

Accordingly, having affirmed the right of revolution under certain conditions, the Declaration goes on to state that as a matter of fact these conditions prevail in the colonies, and that "the people" have submitted to them as long as it is humanly possible to do.

Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that

mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms, to which they are accustomed. But when a long train of abuses & usurpations pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government and to provide new guards for their future security. — Such has been the patient sufferance of these colonies, and such is now the necessity, which constrains them to alter their former systems of government. The history of the present king of great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this let facts be submitted to a candid world.

So at last we come to the 'facts,' the list or catalogue of oppressive measures, the 'repeated injuries and usurpations' of the king of Great Britain.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in

their operation until his assent should be obtained, and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers incapable of annihilation have returned to the people at large for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for natural-

ization of foreigners; refusing to pass others to encourage their migrations hither & raising the conditions of new appropriations of lands.

He has obstructed the administration of Justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us in times of peace standing armies, without the consent of our legislatures.

He has affected to render the military independent of & superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation

for quartering large bodies of troops¹ among us; for protecting them by a mock trial from punish-

¹ All other copies read "armed troops." Hazelton, *The Declaration of Independence*, 321.

ment for any murders, which they should commit on the inhabitants of these states.

for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us in many cases of the benefits of trial by jury;

for transporting us beyond seas to be tried for pretended offences;

for abolishing the free system of english laws in a neighboring province, establishing therein an arbitrary government and enlarging its boundaries, so as to render it at once an example & fit instrument for introducing the same absolute rule into these colonies.

for taking away our charters, abolishing our most valuable laws and altering fundamentally the forms of our governments.

for suspending our own legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts burnt our towns & destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens taken captive on the high seas to bear arms against their country, to become the executioners of their freinds and brethren or to fall themselves by their hands.

He has excited domestic insurrections amongst us and has endeavoured 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 were the 'facts' submitted to a candid world. It is important to note that they were not submitted as being, in themselves, a justification for rebellion; they were submitted to prove that the deliberate and persistent purpose of the king was to establish an 'absolute tyranny' over the colonies. A most significant thing about this long list of the king's alleged actions is the assumption that in each case the king acted with deliberate intention and from a bad motive. It is the bad general purpose

of the king, rather than his bad particular acts, that makes the indictment so effective. And this effect is enhanced by the form in which the 'facts' are presented — the steady, laborious piling up of 'facts,' the monotonous enumeration, without comment, of one bad action after another. How could a candid world deny that the colonies were rightly absolved from allegiance to so malevolent a will!

Nevertheless, in spite of multiplied and long continued grievances, the colonies had not rushed into rebellion.

In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act, which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our british brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity and we have conjured them by the ties of our common

kindred to disavow these usurpations, which would inevitably interrupt our connections & correspondence. They too have been deaf to the voice of justice & consanguinity.¹ We must therefore acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

Thus the framers of the Declaration presented their case. Having formulated a philosophy of government which made revolution right under certain conditions, they endeavored to show that these conditions prevailed in the colonies, not on account of anything which the people of the colonies had done, or had left undone, but solely on account of the deliberate and malevolent purpose of their king to establish over them an 'absolute tyranny.' The people of the colonies must, accordingly (such is the implication), either throw off the yoke or submit to be slaves. As between these alternatives, there could be but one choice for men accustomed to freedom.

We therefore the representatives of the united States of America in general Congress assembled appealing to the supreme judge of the world for the rectitude of our inten-

¹ All other copies read "of consanguinity." *Ibid.*, 335.

tions do in the name and by authority of the good people of these colonies solemnly publish and declare —

That these united colonies are and of right ought to be free and independent States; that they are absolved from all allegiance to the british Crown, and that all political connection between them and the state of great Britain is & ought to be totally dissolved; and that as free & independent states they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts & things, which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes & our sacred honor.

From the foregoing analysis it is clear that, apart from the preamble and the conclusion, the Declaration consists of two parts, apparently quite distinct. The first part is contained in the second paragraph. In these few lines the Declaration formulates, in general terms, a democratic political philosophy. The second and much longer part of the Declaration enumerates the specific grievances against the king of Great Britain, which, ostensibly, are presented as the historical causes of the Revo-

lution. These two parts of the Declaration, apparently quite distinct, are nevertheless intimately related in the logic and purpose of the Declaration. Superficially, the Declaration seems chiefly concerned with the causes of the Revolution, with the specific grievances; but in reality it is chiefly, one might say solely, concerned with a theory of government — with a theory of government in general, and a theory of the British empire in particular. The theory of government in general is explicitly formulated; the theory of the British empire is not explicitly formulated but is implicitly taken for granted; and the second part of the Declaration was carefully phrased so that no assertion or implication might appear as a contradiction or a denial of the assumed theory.

The Declaration thus becomes interesting for what it omits as well as for what it includes. For example, it does not, in its final form, contain the word 'Parliament' — a most significant omission, considering that the controversy of the preceding decade was occasioned, not by the acts of the king, who plays the leading part in the Declaration, but by the acts of the British Parliament. In all the controversy leading up to the Revolution the thing chiefly debated was the authority of the British Parliament. What is the nature, and what pre-

cisely are the limits, of the authority of the British Parliament over the colonies? This question was in fact the central issue. Nevertheless, the Declaration does not mention the British Parliament.

So striking an omission must have been intentional. It was of course impossible to make out a list of grievances against Great Britain without referring to such acts as the Stamp Act, the Declaratory Act, the Boston Port Bill, and many other legislative measures; and the framers of the Declaration, when they brought these measures into the indictment, had accordingly to resort to circumlocution in order to avoid naming the Parliament that passed them. There are, in the Declaration, two such veiled references to the Parliament. The first is this: "He [the king] has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their pretended acts of legislation." These 'others' who have passed pretended acts of legislation are the members of the British Parliament. The second reference is this: "We have warned them [our british brethren] . . . of attempts by their legislature to extend an unwarrantable jurisdiction over us." Obviously, the framers of the Declaration make it a point of principle

not on any account to pronounce the word Parliament. "Of course," we seem to hear them saying, "our British brethren have their legislature, as we have ours. But with their legislature we have nothing to do, God forbid! The very name of the thing escapes us! At least, let us pretend so."

Another significant omission is the term 'rights of British subjects.' Throughout the controversy the colonists had commonly protested against parliamentary taxation precisely on the ground that they possessed the rights of British subjects. They said that the British Parliament could not constitutionally tax British subjects without their consent, and that British subjects in the colonies were not, and in the nature of the case could not well be, represented in the British Parliament. For ten years the colonists had made the 'rights of British subjects' the very foundation of their case. Yet this is just what the framers of the Declaration carefully refrain from doing: the term 'rights of British subjects' does not appear in the Declaration. Trial by jury is mentioned, but not as a right of British subjects. 'The system of free English laws' is mentioned, but it is not stated, or even implied, that the validity of these laws arises from the fact that they are English laws. Nowhere does the Declaration

say, and nowhere does it imply, that the acts of the king are intolerable because they violate the rights of British subjects.

The framers of the Declaration refrained from mentioning Parliament and the 'rights of British subjects' for the same reason that they charged all their grievances against the king alone. Being now committed to independence, the position of the colonies could not be simply or convincingly presented from the point of view of the rights of British subjects. To have said: 'We hold this truth to be self-evident, that it is a right of British subjects not to be taxed except by their own consent,' would have made no great appeal to mankind, since mankind in general could not be supposed to be vitally interested in the rights of British subjects, or much disposed to regard them as axioms in political speculation. Separation from Great Britain was therefore justified on more general grounds, on the ground of the natural rights of man; and in order to simplify the issue, in order to make it appear that the rights of man had been undeniably and flagrantly violated, it was expedient that these rights should seem to be as little as possible limited or obscured by the positive and legal obligations that were admittedly binding upon British subjects. To place the Resolution of Independ-

ence in the best light possible, it was convenient to assume that the connection between the colonies and Great Britain had never been a very close connection, never, strictly speaking, a connection binding in positive law, but only a connection voluntarily entered into by a free people. On this ground the doctrine of the rights of man would have a free field and no competitors.

The specific grievances enumerated in the Declaration were accordingly presented from the point of view of a carefully considered and resolutely held constitutional theory of the British empire. The essence of this theory, nowhere explicitly formulated in the Declaration, but throughout implicitly taken for granted, is that the colonies became parts of the empire by their own voluntary act, and remained parts of it solely by virtue of a compact subsisting between them and the king. Their rights were those of all men, of every free people; their obligations such as a free people might incur by professing allegiance to the personal head of the empire. On this theory, both the Parliament and the rights of British subjects could be ignored as irrelevant to the issue.

The specific grievances complained of in the Declaration are grievances no longer. As concrete issues they are happily dead. But the

way in which the men of those days conceived of these concrete issues, the intellectual preconceptions, illusions if you like, which were born of their hopes and fears, and which in turn shaped their conduct — these make the Declaration always interesting and worthy of study. It is not my intention to search out those particular measures of the British government which served in the mind of Jefferson and his friends to validate each particular charge against the king. This could indeed be done, and has been sufficiently done already; but the truth is that when one has found the particular act to which in each case the particular charge was intended to refer, one is likely to think the poor king less malevolently guilty than he is made out to be. Yet that Jefferson and his friends, honest and good men enough, and more intelligent than most, were convinced that the Declaration was a true bill, we need not doubt. How this could be may be understood, a little at least, by seeing how the pressure of circumstances enabled the men of those days to accept as true their general philosophy of human rights and their particular theory of the British empire.