

# **The Nature and Importance of the Declaration of Independence to the United States Constitution**

## **I. THE RELATIONSHIP BETWEEN RELIGION AND LAW IN THE DECLARATION OF INDEPENDENCE AND THE U. S. CONSTITUTION**

The subject of the relationship between religion and law has proved to be somewhat of a conundrum in contemporary culture and in the legal community. On the one hand, I saw a newspaper article in which Nicholas von Hoffman decries the idea of a particular ideological perspective of law with the following words: “[I]n America we don’t have Christian law, Jewish law, Moslem law. We only have law-law.”<sup>1</sup> Von Hoffman betrays by his words that he believes that judges, legislators, and lawyers approach the matter of law with minds devoid of bias or ideology, and that the law that ensues from their work is truly neutral in intent and result, apparently. On the other hand, President John Quincy Adams, in

---

<sup>1</sup> King’s Syndicate, early 1980s

the early 19th century comments regarding the same theme: “The highest glory of the American Revolution was this: it connected in one indissoluble bond the principles of civil government with the principles of Christianity.” John Quincy Adams (purportedly)<sup>2</sup> For President Adams, then, the government and Christian ideals have been melded together.

I believe both of these gentlemen have overstated their case. Von Hoffman has said too little, and President Adams said too much. In reality, in the largely Christian nation of the 18th century there was general agreement on general theological themes of the Bible, but much difference on certain unique denominational perspectives. In spite of any differences, however, there was broad agreement by diverse groups of that period regarding of natural law perspectives and Christian moral themes, whether they be Trinitarian Christians, Unitarians, or Deists. They all accepted certain givens about the existence of a Creator, adherence to the

---

<sup>2</sup> See John Wingate Thornton, *The Pulpit of the American Revolution XXIX* (1860; 1970), quoted in Federer, *America’s God and Country Encyclopedia of Quotations* 18 (1996), but see also Jim Allison, *John Adams, the American Revolution, and Christianity*, <http://www.sullivan-country.com/bush/myth5.htm>

laws found in Scripture and nature, and the dignity of human beings endowed by the Creator with rights, namely, life, liberty and property.

Not only have there been few atheists in foxholes; the same is true within the colonies of 18th century America. Though an atheist would be hard to find, there were a few Deists, several Roman Catholics and Jews, and a large majority of Protestants, inheritors of the 16th century Reformation, heirs of the Pilgrims and Puritans who came to the shores of America in the 17th century for religious freedom. It is often argued that most of the Framers of the Declaration and Constitution were Deists. This is patently false, demonstrated in the work of M. E. Bradford, *A Worthy Company*. The problem is that some scholars equate rejection of the Calvinistic and Trinitarian Protestantism of the Thirteen Colonies with embracing Deism. This is simply not true. What one observes is Unitarianism. Who was a deist, then? Not Washington, whose prayers and addresses are well known, as well

as his position in his local Anglican church. Not Jefferson, whose appeal to the God of justice is inscribed on the Jefferson Memorial. Not Franklin, whose appeal at the Constitutional Convention for prayer, his recounting of the deeds of Providence during the war with England and his quote on the watchfulness of God from the book of James decry such an epithet. In fact, Franklin, in his autobiography specifically denies the charge of being a Deist, though as a youth he briefly subscribed to the viewpoint.

From the landing at Plymouth Rock to the War for Independence, the influence of religion on this nation has been profound, especially in the common worldview that Deists and Christians held to be true. Christians and Deists acknowledged that there was a Supreme Being who created the world and provided for human rights, but the Unitarians like Jefferson, Franklin, and Adams even went further in concurring with Trinitarians like Witherspoon and Washington, namely, that this Creator was also the God of Judgment and Providence, wording that is found at the

end of the Declaration. Deists and Theists also agreed that the law of nature, by the hand of the Creator, included rights possessed by humans. Jefferson, in the Declaration becomes more specific because he includes the two laws of God, generally understood in the foregoing centuries as God's will in nature and the Holy Scripture. Jefferson, in so doing, was not stating a new truth but one shared by political thinkers for hundreds of years but especially in the colonies of the late 18th century.

Few doubt that the Declaration of Independence was strategic for the founding of the nation, but I would like to go a step further to argue that these broadly agreed principles and theology were equally important for the subsequent organization of the nation under these principles, a nation of WE THE PEOPLE, to secure such rights by limited government, and finally in the Bill of Rights.

Let us turn briefly to reasons for the Declaration of Independence, its nature, and its influence on the U. S. Constitution.

## II. VIEWS ON THE REASON FOR THE DECLARATION OF INDEPENDENCE

There are two primary perspectives on the reason for the Declaration of Independence and the United States Constitution.

The first offered is that the only legitimate reason for the Declaration was to justify and explain the separation of the colonies from England to potential European allies in their fight for independence. Under this view, the Declaration should not be viewed as giving a religious foundation to this nation or its laws. The theological content in the Declaration was unimportant at the time of the founding and thereafter.<sup>3</sup>

Another view, and the one that I would propound, agrees with some of the aforementioned position but allows for a more expansive function for the Declaration. The document was to announce, justify and explain the separation from England to potential European allies in their fight for independence, to be sure, but in so doing Jefferson includes two primary elements in giving

---

<sup>3</sup> Declaration of Independence: Its Purpose, 4/20/2010, <http://candst.tripod.com/doipurp.htm> (last viewed April 24, 2010).

justification for the separation, the laws of God and the gifting of human beings by their Creator.

The laws of nature and of the God of nature present a long held perspective that men (read humans) a moral and legal right to the separation envisioned by the colonies due to the onerous burden that Parliament had put on the colonies through its various acts that had denied the American colonies the rights of Englishmen. The thinking found in 17th century work *A Defense of Liberty Against Tyrants* would have been well known to Jefferson and his compatriots. That document argued men are not obligated to obey laws that are contrary to the law of God, that the king received authority from the people, that the whole body of the people (We the People) are above the king, that the people have a right to revolt against a tyrant, and that other princes had a duty to come to the aid of those so revolting. Other works by men such as Locke and Rutherford argued many of these same points, building on the tradition of St. Thomas Aquinas, St. Augustine, the Justinian Code,

et al, many of whose thoughts found their way into the political and theological mix of the period and into the Declaration. In fact, the first volume of Blackstone's Commentaries on the Law of England (1760-65), the legal sourcebook for the Framers, developed the two laws from God (nature and Scripture) in some depth, and is reflected in Jefferson's words.

The foregoing should be recognized as legitimate and non-debatable based on the wording of the Declaration committee of John Adams, Benjamin Franklin, Thomas Jefferson, Robert Livingston, and Roger Sherman. The following are self-evident truths, namely, that all humans are created equal, the Creator endowed these men with rights that cannot be alienated by England or any government. Among these rights are life, liberty, and the pursuit of happiness (which should be understood as an opportunity, but not the guarantee, to reach one's full potential due to the blessings of liberty). The primary function of government is to secure these rights given by the Creator.

Moreover, and most importantly, in explaining the basis for separation, and the acts of the Parliament in denying these rights, the authors of the Declaration, and the whole Congress, appealed to the Supreme Judge of the world to judge the validity of the separation, believing that He would provide assistance in their quest.

### III. VIEWS ON THE NATURE OF THE DECLARATION OF INDEPENDENCE

A popular view of the past was advanced by MacPherson, in *The Political Theory of Possessive Individualism*, 1962, that the Declaration was based on the thinking of Jeremy Bentham, an 18<sup>th</sup> century philosopher, who also was a student of Blackstone, through John Stuart Mill (19<sup>th</sup> cent), and ultimately from Locke, Hobbes, and Grotius, supposedly Enlightenment rationalists with a humanistic world view.<sup>4</sup>

A second position, argued by Carl Becker in his landmark book on the Declaration, declares that the document comes from entirely

---

<sup>4</sup> Amos, Declaration of Independence and Human Rights

secular philosophical roots, based on Darwinism, Hegelian thought, and Marxism. Becker, in his first edition (1923) considered the American Revolution and the French Revolution to be the thesis and antithesis in conflict that finally produced the Hegelian synthesis in the Bolshevik Revolution, but due to criticism he deleted this Marxist perspective in subsequent printings. According to Becker, Jefferson and other Founders were rationalists, Deists and Enlightenment humanists. It is amazing that many scholars continue to repeat this Beckerian mantra contrary to the opposing and better evidence.

A third perspective is that the Declaration is a non-biblical or anti-biblical document, a view largely held in the 19<sup>th</sup> century by pro-slavery Christians who didn't like the document because it was used by northern abolitionists, particularly Lincoln, especially in his debates as a candidate for the presidency.

The fourth view, and a common one, is that the Declaration is largely dependent on Roman and Greek sources, primarily through

strong Enlightenment influence. This is far too narrow in perspective since classical roots, though present, cannot explain much within the terminology of the Declaration.

A number of contemporary Christians have argued that the Declaration is essentially built on the Bible, and all ideas that are found within the document are consistent with biblical texts, thus making it a Christian document. This position is not without merit, in that many ideas are common to Christian theology regarding government, some of the terminology within the document found within Christian legal history, as well as the reference to Creator and creation, but some of these ideas are *also* present outside the Christian community of the 18<sup>th</sup> century.

Jefferson himself indicated that none of the ideas found within the document were original with him and they were the views shared by the people of the United States at the time and borrowed from a number of sources. In view of this, it is best to consider the Declaration of Independence as a syncretism of the best of political

and moral theory passed down over the centuries in the western world that were embraced by the colonists of the 18<sup>th</sup> century, and so included classical, biblical and natural law referents, as well as the history of social compact from the Magna Carta to the time of the document.

#### IV. THE THEOLOGY OF THE DECLARATION OF INDEPENDENCE

One of my favorite authors is G. K. Chesterton, who, speaking of the Declaration of Independence, says, “America is the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence.”<sup>5</sup> Agreeing with Chesterton, that there is within the document explicit and implicit teaching of theology, what are these theological truths?

The Declaration’s view of government, duty of kings and people, consent of the governed, authority given from the people to the ruler, and a number of other elements that are violated by

---

<sup>5</sup> G. K. Chesterton, *What I Saw in America*, speaking of the “We hold these truths” statement.

England in their treatment of the colonists are reflections of a number of writings from Christians such as Locke, Hooker, St. Thomas Aquinas, Pufendorf, among many others, that were common knowledge by knowledgeable people in the colonies. Moreover, many of these ideas are found within the Bible and quoted in the myriad of political sermons often used in the debate regarding the break with England. Particularly the references to the law of nature and the law of God (Scripture), commonly used expressions in writings that preceded the Declaration. These phrases not used by any other persons than those advocating natural and biblical law.

The Declaration, borrowing on the ideas of the American people, as Jefferson said, would have naturally included the political ideology of the overwhelmingly dominant Protestant Christian people, beginning with the Pilgrims in 1609, the Puritans in 1630, on the heels of the 18<sup>th</sup> century Great Awakening under Edwards and the Mather's, which impact was an impetus toward

the separation with England.

The phrases “laws of nature” and “nature’s God” were emphasized in the first volume of Sir William Blackstone’s *Commentary on the Laws of England* that were published between 1760-65, and sold heavily in the colonies. The Framers studied Blackstone, so it is natural to use the terminology developed by the first professor of Common Law at Oxford.

#### VI. THE RELATION OF THE DECLARATION OF INDEPENDENCE TO THE UNITED STATES CONSTITUTION

The Declaration of Independence, as I understand it, is the first part of the American compact. It is the first of the four organic laws given in the U. S. Code, along with the Articles of Confederation, the Northwest Ordinance, and the United States Constitution. It is the proper introduction to the Constitution, providing the rationale and intent of the organizational document, whereby the rights granted by the Creator to the people are secured by the government.

After approving the Declaration, the Continental Congress turned to writing a national constitution. The Articles of Confederation that resulted proved defective in important respects. As a result, the new Constitution of 1787 replaced the Articles. The Declaration, however, continued to stand as the preface to the American national compact. The Constitution begins, "We the people of the United States, in order to create a more perfect union." The people already exist, and exist in a political union. This can be only if there is a first part to a compact of which the Constitution is the second part. There is no document that can be pointed to as fulfilling such a role other than the Declaration of Independence. To say that we live under a national compact of which the Declaration is the first part may sound a bit strange at first, but it would be stranger still to have begun our national bicentennial in 1976 if the Declaration of Independence was not part of our national founding.

There are also proofs within the document that show it to be the

Preamble to the Constitution. First, the Constitution, in several places, connects the founding of the government with the Declaration of the Independence, and upon which it relies for its philosophical foundation. For example, the heading to the Declaration is "The Unanimous Declaration of the Thirteen United States of America." The one people, seen in the several states already exist and are now just defining relationship. The Declaration toward the end concludes, "We, therefore, the representatives of the United States of America, in General Congress, assembled." The Constitution written in 1787 was "for" the nation already formed in 1776. Further evidence is that this was the way the Framers of the Constitution viewed the situation is found within the Constitution itself. Article I, §2(2), requires that the representatives must have been "seven years a citizen of the United States" before holding office. Such a requirement presupposed the existence of the nation in order for the House of Representatives to convene in 1789. A

similar example is found regarding senators in Article I, §3(3) but "nine years a citizen of the United States . . . ." Unless the government already existed, they would need to wait nine years to meet after 1789. One more qualification clause is used with similar import, that of President. The pertinent clause reads (Art. II, §1(5)), "No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President . . . and been fourteen years a resident within the United States." Natural born citizen as of the Constitution requires a previous citizenship prior to 1787. The residence requirement was before Declaration and citizenship was after Declaration.

The last indication of the existence of the United States from the time of the Declaration is found at the very end of the Constitution. It concludes, "DONE in convention by the

unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth." The unanimous consent was from "states present" at the Declaration.

Last of all, [I]t is significant that as states were subsequently admitted into the Union the statutes admitting such admission provided that they would be admitted with "equal footing" or to the "same footing" as the original states. In fact, the admission statutes for thirteen states, including the states of Alaska in 1958 and of Hawaii in 1959, contained language such as that their respective Constitutions "shall be republican in form . . . and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence." Thus we have Congress, as late as 1959, protecting the structure of the government of this nation . . . .

Accordingly, each state in the union, with the exception of Oregon, specifically make reference to either Almighty God, the Supreme Ruler of the Universe, God, Creator, or *Supreme Being*, being consistent with the principles of the Declaration.

The Declaration of Independence and the Constitution worked together to provide the soul and the body of the law for the proper ordering of society, maintaining morality and civility for the majority of the nation's governmental history. These documents should not be separated. The Declaration sets forth the principles upon which the government of the nation was to be founded. The Constitution establishes the civil powers to accomplish the principles of the Declaration. In view of this, the Constitution cannot be viewed as absent the theological ideas that permeate the Declaration.